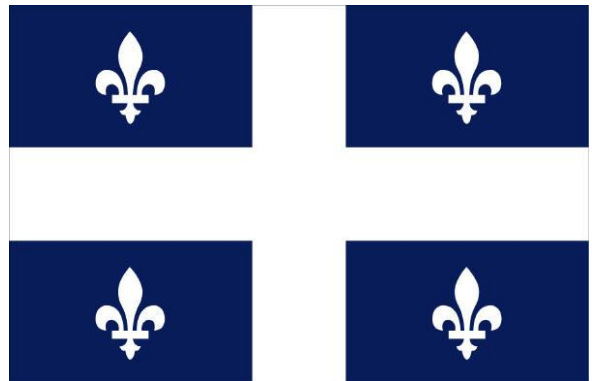




# Kirpan Accommodation in Canada

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Unfortunate Display of Religious Intolerance in Quebec



February 2, 2011

**Quebec, Canada:** Last week's kirpan ban at the National Assembly of Quebec was a startling reminder that the Sikh identity continues to be under attack even in nations generally praised for accepting minority communities. The reminder came after four members of the World Sikh Organization of Canada were refused entry into the National Assembly of Quebec unless their kirpans were left behind.

Ironically, the representatives had been invited to the National Assembly in Quebec City to discuss reasonable religious accommodation. Specifically, the group was to make a presentation on Bill-94, which would place limits on the ability of Muslim women to wear the niqab when seeking public services. Despite the stance against face veils in the Sikh faith, which promotes gender equality, the delegates felt the need to voice their concerns on the persecution of another faith's practices. The kirpan itself embodies this very notion of fighting for equality, justice and to help those that are defenseless. To the shock of the representatives, this incident has left Sikhs of Canada concerned about their own religious equality.

Immediately after the incident, the Bloc Québécois called for the ban to extend to Parliament Hill where Sikhs are currently free to wear the kirpan. The Bloc Québécois appears to lack consistency on this issue as it previously supported a motion in Parliament to recognize the Sikhs' five religious articles of faith, including the kirpan. The Bloc's position has been firmly condemned by Canadian political leaders and organizations in addition to Sikh communities in Canada and around the world.

Last week's incident was not the first involving the kirpan at the National Assembly. Last year, 20 Sikhs invited to the legislature by a Liberal MNA were made to leave their kirpans at security. Only the leader of the group was permitted to carry the smaller of his two kirpans while escorted by heavy security.

The intolerance of legislators from Quebec towards the kirpan and minority communities is worrisome. No reasonable justification can be found for the proposed ban in Parliament let alone for the current ban at the National Assembly. There are numerous policies and accommodation laws in Canada that promote religious freedom while still addressing potential security concerns.

## **CURRENT KIRPAN ACCOMMODATION LAWS AND POLICIES IN CANADA**

- *Multani v Commission scolaire Marguerite-Bourgeoys*, is the leading case on the kirpan arising from Quebec. The Supreme Court of Canada ruled in an unequivocal 8-0 judgment that the absolute prohibition against wearing a kirpan in school infringed freedom of religion guaranteed under s2(a) of the Canadian Charter, and the infringement was not justifiable under s1 of the Charter. It was found that the kirpan is a religious symbol and not a weapon.
- Sikhs were permitted to wear the kirpan at the Vancouver 2010 Olympic and Paralympic Winter Games – the single largest event in Canada calling for intense security measures. Guidelines were issued by the Olympic Security Unit, including the RCMP, on the way in which the kirpan was to be worn. These guidelines allowed the Unit to maintain a firm commitment to both national security and religious freedoms.
- In the case of air travel, the Canadian Human Rights Commission decided in 1999 that a demand to wear the kirpan on airplanes did not constitute a reasonable accommodation. Canada remains aligned with international standards that impose a strict prohibition against all sharp objects, including the kirpan, regardless of a person's religion. In a post 9/11 world where air security is of the utmost concern and individuals are willingly complying with regulations they would not

necessarily agree to on a day-to-day basis (i.e. hand pat-downs and body scanners), this is one area where Canadian Sikhs have made a concession.

- In the case of rail transportation, in December 2006, VIA Rail changed its policy to allow riders the ability to wear a kirpan on trains.
- Lastly, the kirpan is permitted at Parliament Hill among other provincial legislatures and at the Supreme Court of Canada. Navdeep Bains, a Sikh Liberal Member of Parliament for Mississauga Brampton South, who would be directly affected by the Bloc's proposal, testified that he has worn his kirpan without incident to Parliament for the past six years, to the Supreme Court of Canada and during numerous visits to the U.S. Congress.

The above jurisprudence uncompromisingly supports not only accommodation and tolerance but more importantly, respect, for the kirpan and religious freedom in Canada. This jurisprudence stands in clear contrast to the regrettable comments made by Louise Beaudoin, elected member of the Parti Quebecois, that "multiculturalism may be a Canadian value. But it is not a Quebec one." Fortunately, both the Liberal Party and the NDP have taken a strong stance against Beaudoin's comments and the Bloc's move. Any legitimate attempts to ban the kirpan in Parliament will most certainly face resistance.

In the meantime, Sikhs and other minorities in Canada cannot take past accommodation laws and policies for granted. Quebecers and other Canadians must continue to engage each other in dialogue to educate each other on the significance of articles of faith. As has been witness by this incident, when individuals wishing to discuss reasonable religious accommodation are prevented from joining the debate, there is little probability their perspectives will ever be considered. A strong push towards uniform standards for reasonable religious accommodation throughout the nation in compliance with the *Multani* decision and the Canadian Charter of Rights and Freedoms, needs to be continually advocated along with the promotion of multiculturalism.

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